

# State of South Dakota

## SEVENTY-SECOND SESSION LEGISLATIVE ASSEMBLY, 1997

259A0400

### SENATE BILL NO. 196

Introduced by: Senators Lawler, Aker, Drake, Dunn (Rebecca), Flowers, Frederick, Hainje, Halverson, Hunhoff, Hutmacher, Johnson (William), Kloucek, Lange, Reedy, Rounds, Staggers, Symens, and Vitter and Representatives Hunt, Belatti, Chicoine, Crisp, DeMersseman, Duenwald, Fiegen, Fitzgerald, Gleason, Hassard, Jaspers, Kazmerzak, Koetzle, Koskan, Kredit, Lucas, Madden, Matthews, McNenny, Monroe, Moore, Pederson (Gordon), Putnam, Rost, Schrempp, Smidt, Sokolow, Van Gerpen, Waltman, Weber, Wetz, and Wick

1 FOR AN ACT ENTITLED, An Act to provide for civil enforcement of statutes against assisted  
2 suicide.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

4 Section 1. Terms used in this Act mean:

5 (1) "Licensed health care professional," any physician, surgeon, podiatrist, osteopath,  
6 physician assistant, nurse, dentist, or pharmacist licensed pursuant to Title 36; and

7 (2) "Suicide," the act or instance of taking one's own life voluntarily and intentionally.

8 Section 2. That § 22-16-36 be amended to read as follows:

9 22-16-36. Suicide is the ~~intentional~~ act or instance of taking of one's own life voluntarily and  
10 intentionally.

11 Section 3. Any licensed health care professional who administers, prescribes, or dispenses  
12 medications or procedures to relieve another person's pain or discomfort, even if the medication  
13 or procedure may hasten or increase the risk of death, does not violate § 22-16-37 unless the

1 medications or procedures are knowingly administered, prescribed, or dispensed to cause death.  
2 Any licensed health care professional who withholds or withdraws a life-sustaining procedure,  
3 as defined in subdivision 34-12D-1(4), does not violate § 22-16-37.

4 Section 4. A cause of action for injunctive relief may be maintained against any person who  
5 is reasonably believed to be about to violate or who is in the course of violating § 22-16-37 by  
6 any person who is:

- 7 (1) The spouse, parent, child, sibling, legally appointed guardian, or conservator of the  
8 person who would commit suicide;
- 9 (2) Entitled to inherit under the laws of intestate succession from the person who would  
10 commit suicide or the beneficiary under a life insurance policy of the person who  
11 would commit suicide;
- 12 (3) A health care provider of the person who would commit suicide;
- 13 (4) Any public official with appropriate jurisdiction to prosecute or enforce the laws of  
14 this state.

15 Section 5. Any person given standing by subdivision (1) or (2) of section 4 of this Act or the  
16 person who would have committed suicide, in the case of an attempt, may maintain a cause of  
17 action against any person who violates or attempts to violate § 22-16-37 for compensatory  
18 damages and punitive damages. Any person described in subdivision (4) of section 4 of this Act,  
19 may maintain a cause of action against a person who violates or attempts to violate § 22-16-37  
20 for a civil penalty of up to fifty thousand dollars on behalf of the state. An action under this  
21 section may be brought whether or not the plaintiff had prior knowledge of the violation or  
22 attempt.

23 Section 6. Reasonable attorney's fees shall be awarded to the prevailing plaintiff in any civil  
24 action brought pursuant to section 4 or 5 of this Act.

25 Section 7. Any professional licensing board authorized pursuant to Title 36 shall suspend or

1     revoke the license of any licensed health care professional who:

2           (1)     Is convicted of a violation of § 22-16-37;

3           (2)     Has been cited for contempt of court for violating an injunction issued under section  
4                   4 of this Act; or

5           (3)     Has been subject to an assessment of damages under section 5 of this Act.